

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Case No. 3:12-cr-00038-HDM-VPC

Plaintiff,

v.

ANTONIO CASARES-CUEVAS,

ORDER

Defendant.

The defendant has filed a motion for reduction of sentence under 18 U.S.C. § 3582(c)(2) and Amendment 821 to the United States Sentencing Guidelines (ECF No. 263). On December 4, 2024, the Federal Public Defender filed a "Notice of Non-Eligibility" pursuant to Second Amended General Order 2023-09, indicating that the defendant is not entitled to a sentence modification under Amendment 821. (ECF No. 267). The court agrees.

Section 3582(c)(2) allows the court to modify a term of imprisonment for "a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by" a retroactive amendment to the Sentencing Guidelines. See *id.*; U.S.S.G. § 1B1.10(a)(1)-(2). Amendment 821 amended the sentencing guidelines in two ways that have been given retroactive effect. First, U.S.S.G. § 4A1.1 was amended to reduce or eliminate the number of criminal history points counted when an offender commits the instant offense while under a criminal justice sentence, otherwise referred to as "status points." Second, Amendment 821 created a new guideline provision - § 4C1.1 - which

1 provides for a reduction in offense level for certain offenders
2 with zero criminal history points. The defendant neither received
3 any "status points" nor was a zero-point offender. Accordingly,
4 Amendment 821 had no effect on his guideline range, and he is not
5 therefore eligible for relief under § 3582(c) (2). The motion for
6 sentence reduction (ECF No. 263) therefore must be, and hereby is,
7 DENIED.

8 IT IS SO ORDERED.

9 DATED: This 4th day of December, 2024.

10 
11

12 UNITED STATES DISTRICT JUDGE

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28